

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WARREN EASLEY,	Plaintiff,)	
)	C.A. No. 19-223 Erie
)	
	v.)	
)	District Judge Susan Paradise Baxter
REUBERG, et al.,	Defendants.)	Magistrate Judge Richard A. Lanzillo
)	

MEMORANDUM ORDER

Plaintiff Warren Easley, an inmate incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania (“SCI-Forest”), initiated this *pro se* civil rights action on August 9, 2019, against multiple staff members of SCI-Forest and two outside medical providers, Renberg (incorrectly identified by Plaintiff as “Reuberg”) and Byers. The case was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. This matter was subsequently reassigned to the undersigned, as presiding judge, on August 27, 2019, with Judge Lanzillo remaining as the referred Magistrate Judge for all pretrial proceedings.

On November 25, 2019, Defendants Renberg and Byers filed a motion to dismiss for failure to state a claim [ECF No. 24], to which were attached external documents in support of an exhaustion defense. As a result, the Magistrate Judge treated the motion as a motion for summary judgment and gave Plaintiff notice of his intent to do so in accordance with Renchenski v. Williams, 622 F.3d 315 (2010). Plaintiff failed to file a response in opposition to Defendants’

motion, despite having received an extension to do so.

On April 21, 2020, Judge Lanzillo issued a Magistrate Judge's Report and Recommendation ("R&R") recommending that Defendants' motion be granted as to all claims against Defendants Renberg and Byers arising out of their alleged conduct in 2019 because the record establishes that Plaintiff failed to exhaust his administrative remedies as to these claims, but denied as to claims arising out of Defendant Renberg's alleged conduct in 2015 because Defendant Renberg has failed to produce a record to support his exhaustion defense or statute of limitations defense as to such claims. [ECF No. 37]. Objections to the R&R were due to be filed by May 8, 2020; however, no objections have been filed to date.

After *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 12th day of May, 2020;

IT IS HEREBY ORDERED that the motion to dismiss filed by Defendants Renberg and Byers, which has been treated as a motion for summary judgment [ECF No. 24], is GRANTED as to Plaintiff's claims arising from the alleged conduct of Defendants Renberg and Byers in 2019 due to Plaintiff's failure to exhaust administrative remedies, but DENIED as to Plaintiff's claims against Defendant Renberg arising from his alleged conduct in 2015. Accordingly, judgment is hereby granted against Defendant Byers as to all claims against him, and the Clerk is directed to terminate said Defendant from this case. The report and recommendation of Magistrate Judge Lanzillo, issued April 21, 2020 [ECF No. 37], is adopted as the opinion of the court.

s/Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
U.S. Magistrate Judge